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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,097	01/03/2005	Jerome Couvreur	930108-2005	9148
7590	11/17/2006			EXAMINER FISHMAN, MARINA
RONALD R. SANTUCCI FROMMER LAWRENCE & HAUG, LLP 745 FIFTH AVENUE NEW YORK, NY 10151			ART UNIT 2832	PAPER NUMBER

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/520,097	COUVREUR ET AL.
	Examiner	Art Unit
	Marina Fishman	2832

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 25 September 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3,6-8 is/are rejected.
- 7) Claim(s) 4 and 5 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 01/03/2005.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) Notice of Informal Patent Application
- 6) Other: _____.

DETAILED ACTION

General status

1. This is a Second Non-Final Action on the Merits. Claims 1 - 8 are pending in the case and are being examined.

Information Disclosure Statement

2. The Examiner has inadvertently signed the IDS sent on 06/27/2006. Since the two references DE 26 22 229 and Fr 2 473 221 on the IDS dated 1/3/05 are relevant to the invention, the Applicant should submit English translation of these two references. The Examiner has re-submitted IDS with the two references crossed-out and will sign it, once the translation is received.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3 – 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3, it is not clear what is meant by “permanently divert the crank pin”. As the crank pin can be moved from one position to the another, each of the of the position of the crank pin is temporary. Claim 6 also has similar recitation.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 – 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable

Rutterschm [FR 2,473,221] in view of Menetrier et al. [US 6,392,374].

Regarding Claims 1- 3 and 8, Rutgerschm [Figures 1- 4] discloses a device for manual control of the position of switching means comprising:

- two extreme positions [Figure 1, left (top term.37 connected to top term.36) and right (bottom term.37 connected to bottom top term.36) tracks] and an intermediate position [no terminals connected], provided with a crank [connected to 14] with a crank pin [10]
- a slider [14] that can move in translation, has a rest position, the tracks allows the crank pin to be guided towards three zones of the slider (portions of the tracks), in which the position is stable.

Regarding Claims 1 - 3 and 8, Rutgerschm discloses the instant claimed invention except for “electric powering of the motor for operating a closure, privacy or sun-protection element” and “the three positions correspond to three switching means.”

Menetrier et al. disclose a control means for electric powering of the motor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the switching means of Rutgerschm for OPERATING the motor of Menetrier et al. in order to control all three switching positions of the motor..

Regarding Claim 3, the slider has one means tracks [15a, 15b, 15 c] to divert the crank pin [16], which comprises plurality of levels.

7. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rutterschm [FR 2,473,221] in view of Menetrier et al. [US 6,392,374], as applied to claims 1 and 3 above, and further in view of Terajima et al. [US 4,531,026]. Regarding Claims 6 and 7, Rutterschm in view of Menetrier et al. disclose the instant claimed invention except for the details of the track. Terajima et al. disclose contour of the track, which comprises several levels and ramps [Figure 5B1]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a plurality of levels and ramp in the tracks of Rutterschm in view of Menetrier et al., as suggested by Terajima et al., so that the pin can gradually guided in the track.

Allowable Subject Matter

8. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

9. Applicant's arguments with respect to claims 1-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marina Fishman
November 6, 2006


ELVIN ENAD
SUPERVISORY PATENT EXAMINER
08 Nov 06